HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, April 27, 2017
85th Legislature, Number 58
The House convenes at 10 a.m.
Part One

Twenty-eight bills are on the daily calendar for second-reading consideration today. The bills on the General State Calendar analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

The House also will consider a Local, Consent, and Resolutions Calendar and a Congratulatory and Memorial Calendar.

Dwayne Bohac
Chairman
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Thursday, April 27, 2017
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Part 1

HB 2943 by Larson	Creating a program to promote conservation easements	1
HB 2328 by Lucio	Establishing expedited response procedure for public information requests	3
HB 3018 by Phelan	Requiring reciprocity for nonresident TWIA insurance agents	8
HB 1934 by Minjarez	Certifying educators whose spouses are active duty military	10
HB 115 by Guillen	Increasing value of a residential dwelling as a prize at charitable raffles	12
HB 2035 by Walle	Continuing the Maternal Mortality and Morbidity Task Force until 2023	14
HB 572 by Stephenson	Creating a fund and outlining a program for pesticide disposal	16
HB 740 by Burkett	Issuing licenses and fees for child care facilities	19
HB 2994 by Ashby	Allowing funding for certain workforce continuing education courses	21
HB 1859 by Simmons	Requiring certain disclosure for rental-purchase agreements	25
HB 1755 by Neave	Allowing electronic jury questionnaires	28
HB 2321 by Turner	Revising provisions related to LIRAP and local initiative projects	30
HB 836 by Clardy	Providing loan debt information to certain students	35
HB 3220 by Phillips	Regulating internationally active insurance groups	38
HB 3013 by Martinez	Allowing agricultural land valuation for land in the pest management zone	42
HB 2770 by Smithee	Making certain computer networks, web addresses a common nuisance	45

SUBJECT: Creating a program to promote conservation easements

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — Larson, Phelan, Ashby, Kacal, T. King, Lucio, Nevárez, Price

0 nays

3 absent — Burns, Frank, Workman

WITNESSES: For — Jim Bradbury, Texas Agricultural Land Trust, Texas Land Trust Council; Andrew Sansom; (*Registered, but did not testify*: Jill Boullion, Bayou Land Conservancy; Kirby Brown, Ducks Unlimited; Ed McCarthy, Fort Stockton Holdings LP, Clayton Williams Farms, Inc.; Charles Flatten, Hill Country Alliance; Sarah Floerke Gouak, Lower Colorado River Authority; Jesse Ozuna, City of Houston Mayor's Office; Christopher Mullins, Sierra Club; Blair Fitzsimons, Texas Agricultural Land Trust; Jason Skaggs, Texas and Southwestern Cattle Raisers Association; Jim Reaves, Texas Farm Bureau; Ronald Hufford, Texas Forestry Association; John Shepperd, Texas Foundation for Conservation; Lori Olson, Texas Land Trust Council; Joey Park, Texas Wildlife Association; Vanessa Hague, Andy Jones, The Conservation Fund; Trent Townsend, The Nature Conservancy)

Against — (*Registered, but did not testify*: Ryan Simpson, League of Independent Voters)

On — Bech Bruun, Texas Water Development Board; (*Registered, but did not testify*: Jessica Zuba, Texas Water Development Board)

BACKGROUND: Water Code, sec. 15.601 requires the Texas Water Development Board (TWDB) to administer the Clean Water State Revolving Fund to provide financial assistance to political subdivisions for construction of treatment works and to individuals for nonpoint source pollution control and abatement projects. Funds are provided in accordance with the capitalization grant program established under the Federal Water Pollution Control Act.

A conservation easement is a voluntary legal agreement between a landowner and a land trust or government agency that limits certain uses or development of the property for water conservation purposes.

DIGEST:

CSHB 2943 would require the Texas Water Development Board (TWDB) to establish rules to create a program promoting conservation easements for eligible applicants, funded by the Clean Water State Revolving Fund. Easements acquired through the program would be required to have a demonstrable impact on water quality control, as determined by the board. Funds used for the program would have to be consistent with maintaining the perpetuity of the revolving fund.

The bill also would extend the maximum loan term offered by TWDB through the revolving fund from 20 years to 30 years.

The board would be required to adopt rules under this bill by January 1, 2018. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Establishing expedited response procedure for public information requests

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — (*Registered, but did not testify*: Trey Lary, Allen Boone Humphries Robinson LLP; Mark Mendez, Tarrant County; Michael Schneider, Texas Association of Broadcasters; John Dahill, Texas Conference of Urban Counties; Zindia Thomas, Texas Municipal League; Donnis Baggett, Texas Press Association)

Against — Zenobia Joseph; (*Registered, but did not testify*: David Anderson, Arlington ISD; Nicole Hudgens, Texas Values Action)

On — (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Justin Gordon, Texas Attorney General)

BACKGROUND: Subchapter G of the Public Information Act (Government Code, ch. 552) establishes the process by which a governmental body must request an attorney general decision if it wishes to withhold information from public disclosure under a statutory exception, if there has not been a previous determination that the information falls within one of the exceptions. Within 10 business days of receiving the request, the body must request the opinion and notify the original requestor that the attorney general will decide whether the information will be released. The attorney general has 45 days to render a decision.

DIGEST: CSHB 2328 would establish a procedure for an expedited response to a public information request.

Expedited requests. The bill would allow a governmental body to

withhold any information it made a good-faith determination was excepted from required public disclosure under public information laws without requesting an attorney general decision.

The governmental body would have to respond to the requestor within five days and would have to include in the response:

- a list of the statutory or constitutional exceptions or a judicial decision the governmental body determined was applicable to the information being withheld;
- all information to be released and, if any information was redacted, clear markings labeling relevant exceptions;
- a description of the volume and type of information withheld; and
- a notice form from the attorney general that included certain items, including an appeal form and a description of the appeal procedure.

If the requested information was suspected to involve certain confidential information, including information related to bidding, trade secrets, or student records, among others, an expedited response could not be rendered.

The bill would offer an affirmative defense to prosecution for the offense of distributing information considered confidential under public information laws if the governmental body unintentionally released the confidential information in an expedited response.

Appeal. A requestor could appeal the withholding of information within 30 days of receiving the response. The appeal would have to be submitted on the form provided in the response and would be considered a new request subject to the procedure for an attorney general decision.

In the event of an appeal, a governmental body would have 10 days to submit required information to the attorney general, including a request for a decision, a copy of the original request for information, a copy of the appeal form, and details on the exceptions that applied to the information.

A governmental body could not seek to narrow or clarify an appeal or respond to a requestor under provisions governing repetitious or

redundant requests.

Eligibility. For a governmental body to be eligible to provide an expedited response to a request, the public information officer or a designee would have to hold an active training certificate, and the governmental body could not have had its authorization to do so revoked.

Training. A public information officer or their designee within the previous four years would be required to have completed a course of training on the responsibilities of the body under the bill in relation to a request.

The attorney general would be required to ensure that training was made available, including at least one course made available online. Certain public information officers would be required to complete the training in person, depending on the population of the county inn which the government office was located. The training would have to include instruction on certain items listed in the bill.

The Office of the Attorney General would be required to provide a certificate after a person completed the required training and keep records of those issued. A governmental body would have to maintain the training certificate of its employees and make them available for public inspection.

Revocation. If the attorney general determined that a governmental body failed to comply with the requirements of public information laws, the Office of the Attorney General could revoke its authorization to provide an expedited response or the training certificate of the individual responsible for the body's failure. The governmental body's revocation could not be in effect for more than six months from the date the body received a notice of revocation form. An individual whose certificate was revoked would have to repeat the training to obtain a new certificate.

If an individual was employed by a governmental body when its authorization was revoked and obtained employment at a different governmental body, the individual could not provide responses until the revocation period for the initial place of employment expired.

A list of individuals who held an active training certificate and a list of the governmental bodies whose authorizations had been revoked would be published on the Office of the Attorney General's website.

Report on implementation. For fiscal 2018-19, the attorney general would be required to collect data detailing the number of requests for decisions received in response to appeals, individuals who completed training, governmental bodies who had their authorization revoked, and individuals who had their training certificates revoked. The attorney general's office would make this data available on its website by February 1, 2019.

The bill would take effect September 1, 2017, and would apply only to a request for information received on or after that date.

SUPPORTERS SAY:

CSHB 2328 would make it more efficient for governmental entities to respond to public information requests by establishing an expedited response procedure that incentivized faster responses while ensuring that requestors maintained all of the protections and administrative review under current law.

Currently, governmental bodies have 10 days to request an attorney general decision to withhold information in response to a request. The attorney general has 45 days to render the decision. Requestors note that this process takes too long and encourages governmental bodies to request decisions to delay a response. This process also is burdensome for governmental bodies and expends resources. In addition, the attorney general's office has experienced a notable increase in requests.

CSHB 2328 should help requestors get information faster and reduce the burden on the attorney general's office. A governmental body would have five days to respond to a request instead of the 10 days allowed under subchapter G of the Public Information Act. An attorney general decision already is not needed in most cases if there was a ruling on a similar issue. Governmental bodies in good faith redacting information known to be excepted would allow the attorney general's office to be used instead as a backstop in the event of an appeal.

The bill would protect the public's right to information by providing several safeguards for requestors. Each response would include a description of why the information was redacted and what statutory authority allowed the governmental body to do so. The requestor would have the right to appeal and require the attorney general to render a decision, a practice consistent with current procedures. If a governmental body did not comply with public information laws, the attorney general's office would have the discretion to revoke an entity's ability to use the process based on a pattern of bad behavior. Further, the bill would not make the expedited response procedure a requirement; rather, governmental bodies could elect to use it as a tool.

OPPONENTS SAY:

CSHB 2328 would not balance competing interests between governmental bodies and the public's right to access open records. Although the bill would attempt to expedite the release of information, it also would provide a means for bad actors to automatically withhold information by by-passing the administrative procedures under current law.

NOTES:

A companion bill, SB 1347 by Watson, was placed on the Senate's intent calendar on April 27.

SUBJECT: Requiring reciprocity for nonresident TWIA insurance agents

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Lee Loftis, Independent Insurance Agents of Texas (*Registered, but did not testify*: Jay Thompson, Afact; Thomas Ratliff, American Insurance Association; Tom Tagliabue, City of Corpus Christi; Joe Woods, Property Casualty Insurers Association of America (PCI))

Against — None

On — (*Registered, but did not testify*: Marianne Baker and Elijio Salas, Texas Department of Insurance)

BACKGROUND: The Texas Windstorm Insurance Association (TWIA) is the windstorm and hail insurer of last resort for 14 Texas counties and a portion of Harris County.

Insurance Code, sec. 4056.052 directs the Texas Department of Insurance to issue a license to a nonresident agent if:

- the applicant holds a license in good standing as an agent in the applicant's state of residence; and
- the applicant's state of residence will grant a nonresident agent license on a reciprocal basis to a Texas resident agent.

The department may issue a reciprocal nonresident agent license to an applicant if the authority granted by the license issued by the applicant's state of residence is generally comparable to the authority granted by a license issued by the state of Texas.

DIGEST: HB 3018 would add a requirement to the Texas Windstorm Insurance

Association's plan of operation for providing windstorm and hail insurance in a catastrophe area. Under the bill, a nonresident agent could not offer or sell a Texas windstorm and hail insurance policy unless the nonresident agent's state of residence authorized a Texas resident agent to act in the nonresident agent's state as an agent for that state's windstorm and hail residual insurer of last resort.

The bill would take effect January 1, 2018.

SUPPORTERS SAY:

HB 3018 would level the playing field for windstorm and hail insurance agents by allowing access to the Texas Windstorm Insurance Association (TWIA) to a licensed agent of any state that allowed nonresident Texas agents access to their state's windstorm insurer of last resort. After a 2016 action by the Louisiana legislature, Texas agents were excluded from accessing Louisiana's wind insurance pool. Southeast Texas agents have been especially affected because they are excluded from helping their clients on the border of Texas and Louisiana get insurance for their Louisiana exposure. The bill would create reciprocity for access to TWIA and other states' wind insurance pools. While the Louisiana Legislature may not have intended to negatively affect Texas insurance agents, until the situation is rectified, the bill would be necessary to protect the state’s interests.

The bill would not limit choice for Texas consumers. There are hundreds of thousands of Texas agents and only a few nonresident agents who offer and sell windstorm and hail insurance policies in Texas.

OPPONENTS SAY:

HB 3018 could limit choice for consumers by excluding some nonresident insurance agents from offering or selling TWIA insurance.

NOTES:

A companion bill, SB 1283 by Creighton, was referred to the Senate Business and Commerce Committee on March 13.

SUBJECT: Certifying educators whose spouses are active duty military

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America; Elizabeth Lee)

Against — None

On — (*Registered, but did not testify*: Dale Vandehey, Department of Defense State Liaison Office; Marilyn Cook, Texas Education Agency)

BACKGROUND: Education Code, sec. 21.052 allows the State Board of Educator Certification to certify out-of-state teachers who move to Texas. The teacher must hold a teaching certificate issued by another state and a degree from an accredited institution.

If the candidate has not passed the Texas teacher certification exam or a similar exam, the teacher may be awarded a temporary certificate for a period specified by the board. Before receiving a standard certificate, the holder of a temporary certificate must meet the examination requirements within one year of being notified of them.

Some observers note that spouses of active duty military service members who are qualified to teach in another state would benefit, while living in Texas, from an expedited application process that results in a three-year temporary teaching certificate that corresponds with a typical duration of a military reassignment.

DIGEST: HB 1934 would require the State Board of Educator Certification to propose rules establishing procedures to expedite teacher certification

application processing for a teacher who was also the spouse of an active-duty U.S. military service member. Rules proposed would include those for providing appropriate documentation to establish that the teacher was a military service member's spouse.

A temporary certificate issued to the teacher married to the military service member could not expire earlier than three years from the date the board had reviewed the teacher's credentials and the educator was notified of the examination requirements for receiving a standard certificate.

The bill would take immediate effect if finally passed by a two-thirds vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES: According to the Legislative Budget Board, the bill would have an estimated negative impact of $204,848 on general revenue related funds through fiscal 2018-19 due to information technology requirements associated with supporting the new certificate.

SUBJECT: Increasing value of a residential dwelling as a prize at charitable raffles

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Kuempel, Frullo, Geren, Goldman, Herrero, Paddie, S. Thompson

0 nays

2 absent — Guillen, Hernandez

WITNESSES: None

BACKGROUND: Occupations Code, sec. 2002.056 allows charitable raffles to offer a residential dwelling as a prize as long as its value does not exceed $250,000.

DIGEST: HB 115 would raise the maximum value of a residential dwelling that could be offered as a prize in a charitable raffle from $250,000 to $2 million.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply to a charitable raffle for which the prize was to be awarded on or after that date.

SUPPORTERS SAY: HB 115 would help improve fundraising for qualified Texas charities. Because nonprofits are limited to two charity raffles a year under the Charitable Raffle Enabling Act (Occupations Code, ch. 2002), the bill would allow them to take better advantage of a raffle's fundraising potential by offering residential dwelling prizes with a value of up to $2 million. The bill would allow a charity to buy a higher-value home than allowed under current law, typically at reduced price, and build a several-month campaign around its raffle.

Under current law, a charity may raffle a house worth more than $250,000

if it is 100 percent donated. The home value cap is imposed only when a charity spends any percentage of its money on the dwelling. By raising the value cap on a dwelling purchased by an organization, the bill would allow charities to take advantage of a broader range of fundraising opportunities that may come their way.

OPPONENTS SAY:

The intent of the Legislature was for charitable raffles to be small in scope, ensuring that they did not become a big business. The state should be cautious when expanding charitable raffles to be larger than originally intended.

OTHER OPPONENTS SAY:

While HB 115 would be a positive step toward lessening governmental authority over charitable raffles, it would not go far enough and instead should fully repeal the limitation on how much an organization may pay for a house used as a raffle prize.

SUBJECT: Continuing the Maternal Mortality and Morbidity Task Force until 2023

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Price, Sheffield, Arévalo, Burkett, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

2 absent — Coleman, Collier

WITNESSES: For — (*Registered, but did not testify*: Juliana Kerker, American Congress of Obstetricians and Gynecologists-Texas District and Texas Association of Obstetricians and Gynecologists; Anne Dunkelberg, Center for Public Policy Priorities; Wendy Wilson, Consortium of Texas Certified Nurse-Midwives; Leah Gonzalez, Healthy Futures of Texas; Nora Del Bosque, March of Dimes; Bill Kelly, City of Houston Mayor's Office; Christine Yanas, Methodist Healthcare Ministries; Will Francis, National Association of Social Workers-Texas Chapter; Jessica Schleifer, Teaching Hospitals of Texas; Marshall Kenderdine, Texas Academy of Family Physicians; Tim Schauer, Texas Association of Community Health Plans; Sara Gonzalez, Texas Hospital Association; Marilyn Doyle, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Lane Aiena; Thomas Parkinson)

Against — None

On — Evelyn Delgado, Texas Department of State Health Services

BACKGROUND: The 83rd Legislature in 2013 enacted SB 495 by Huffman, which created the Maternal Mortality and Morbidity Task Force. The task force is a multidisciplinary entity within the Department of State Health Services that studies and reviews cases of pregnancy-related deaths and trends in severe maternal morbidity and makes recommendations to help reduce the frequency of these incidents in Texas. The task force and DSHS published a joint report on the task force's findings and recommendations in 2016. Provisions governing the task force are scheduled to expire in 2019.

DIGEST:

HB 2035 would continue the Maternal Mortality and Morbidity Task Force until September 1, 2023.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2035 would continue the Maternal Mortality and Morbidity Task Force to help address a rise in rates of maternal mortality and morbidity in Texas. Studies have found that Texas has a higher rate of maternal mortality and morbidity than most other states and many industrialized countries. Continuing the task force through 2023 would allow it to develop a better understanding for this rise.

Analyzing maternal mortality and morbidity cases is time-consuming. The task force is limited by availability of specialized staff, and the process involves redacting to keep patient information private. The task force has reviewed cases from 2011 and 2012 and needs more time to review recent cases to find a reason for the recent spike in maternal deaths.

The Department of State Health Services (DSHS) uses task force findings to decide what kind of public health interventions and prevention initiatives would best prevent maternal mortality and morbidity. It also uses the information to decide how to leverage and target existing programs. Allowing the task force to continue reviewing cases would help DSHS make decisions on prevention programs going forward.

The Maternal Mortality and Morbidity Task Force works best as a statewide task force, bringing together physicians, DSHS staff, community advocates, registered nurses, medical examiners, ob-gyns, researchers, nurse-midwives, social workers, and other experts in pregnancy-related deaths to work on this issue. Continuing the task force would demonstrate the importance Texas places on reducing the state's rate of maternal mortality and morbidity.

OPPONENTS SAY:

Continuing the task force under HB 2035 is not necessary. A non-governmental entity, such as a private research institution, would be better suited to undertake the work of the task force.

SUBJECT: Creating a fund and outlining a program for pesticide disposal

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 6 ayes — T. King, González, C. Anderson, Burrows, Cyrier, Stucky

1 nay — Rinaldi

WITNESSES: For — (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter Sierra Club; Sarah Floerke Gouak, Lower Colorado River Authority; Donnie Dippel, Texas Ag Industries Association; Jim Reaves, Texas Farm Bureau; Ron Hufford, Texas Forestry Association; Patrick Wade, Texas Grain Sorghum Association; Jeff Stokes, Texas Nursery & Landscape Association; Todd Kercheval, Texas Pest Control Association; Robert Turner, Texas Poultry Federation)

Against — None

On — Leslie Smith and Philip Wright, Texas Department of Agriculture; (*Registered, but did not testify*: Travis Miller, Texas A&M AgriLife Extension Service)

BACKGROUND: Agriculture Code, sec. 76.044 requires the Texas Department of Agriculture to charge a fee for each new pesticide registration or renewal of a previous pesticide registration.

DIGEST: CSHB 572 would require the Texas Department of Agriculture (TDA), in coordination with Texas Commission on Environmental Quality (TCEQ) and the Texas A&M AgriLife Extension Service, to organize pesticide waste and container collection activities statewide and facilitate the collection of canceled, unregistered, or otherwise unwanted pesticide products and containers. TDA, TCEQ, and the Texas A&M AgriLife Extension Service could contract for services to implement these collection activities.

The bill would create a pesticide disposal fund outside of the general revenue fund to pay for these collection activities. The fund would consist

of money generated through pesticide registration and renewal fees and the interest earned on the investment of money in the fund. TDA would be required annually to deposit to the credit of the pesticide disposal fund an amount of money sufficient to cover administrative costs for pesticide waste and pesticide container collection activities, not to exceed $400,000

This bill would take effect on September 1, 2017.

SUPPORTERS SAY:

CSHB 572 would provide an avenue for proper and lawful disposal of unwanted and expired pesticides. Disposing of these pesticides is difficult and expensive, and storing expired pesticides is against the law. The program would allow individuals to dispose of pesticides properly at no cost, while ensuring these pesticides did not harm water supplies or the land.

The bill would reinstate a previous, successful program without increasing current registration fees. The previous program was in effect for nearly 20 years before it ended due to budget cuts. The program authorized by the bill would be funded with registration fees paid by companies selling pesticides in Texas, and it is anticipated that the Texas Department of Agriculture (TDA) could fund and administer the program without increasing registration fees.

TDA would operate the program similarly to the previous program. The previous program was able to operate 10 program sites at a cost of $300,000. Sites were chosen on a rolling basis throughout the state, catching every major farming area at least once every few years. Flyers were sent out within a 100-mile radius of the program site informing people of the program and the collection times. While the program did not gather all of the unwanted and expired pesticides in the state, it did gather a substantial amount that could have harmed the environment through improper storage or disposal.

OPPONENTS SAY:

CSHB 572 would create another unnecessary government program. In addition, dealing with these pesticides and pesticide containers likely would be an immense task that could cost more than the $400,000 set aside to fund the program.

NOTES:

In its fiscal note, the Legislative Budget Board estimates no fiscal impact through fiscal 2018-19, using the assumption that TDA would raise pesticide product registration fees to offset a reduction caused by depositing funds into the pesticide disposal fund.

SUBJECT: Issuing licenses and fees for child care facilities

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Raymond, Frank, Miller, Minjarez, Rose, Swanson, Wu

0 nays

2 absent — Keough, Klick

WITNESSES: For — (*Registered, but did not testify*: Margaret Johnson, League of Women Voters of Texas; Lonnie Hutson, NCCC; Seth Winick, Texas Licensed Child Care Association; and 13 individuals)

Against — None

BACKGROUND: Human Resources, sec. 42.054 requires the Health and Human Services Commission (HHSC) executive commissioner by rule to adopt licensing fees for child care facilities. The Department of Family and Protective Services is required to administer the licensing fees HHSC adopts. Under sec. 42.050 the licensure renewal process for child care facilities is managed by HHSC rule. A child care facility's license is valid until it expires, is revoked, or is surrendered.

DIGEST: CSHB 740 would require the Department of Family and Protective Services to set fees as follows:

- $35 for a nonrefundable application fee for an initial license to operate a child care facility or a child-placing agency;
- $35 for each child care facility for an initial license;
- $50 for each child-placing agency for an initial license;
- $35 for an annual license plus $1 for each child that the child care facility is permitted to serve;
- $100 for an annual license fee for each licensed child-placing agency; and
- $20 for a listed family home or $35 for a registered family home.

The bill would remove provisions governing the license expiration and the license renewal process for child care facilities and would repeal the provision requiring the Health and Human Services Commission executive commissioner by rule to set licensing fees.

The bill would take effect September 1, 2017, and would apply to an application fee paid or license fee due on or after that date.

SUPPORTERS SAY:

CSHB 740 would provide accountability in setting licensing fees by ensuring proposed increases were thoroughly vetted through the legislative process instead of by commissioner rule. By removing the provisions on the licensure renewal process, the bill also would alleviate an administrative burden on child care facilities.

OPPONENTS SAY:

CSHB 740 also should eliminate the certification and registration renewal process for child care facilities, which are similar to the license renewal process that the bill would remove. This would help eliminate regulatory inconsistencies within the Department of Family and Protective Services.

NOTES:

CSHB 740 differs from the bill as filed in that the committee substitute would remove the license expiration and license renewal process for child care facilities.

SUBJECT: Allowing funding for certain workforce continuing education courses

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard, Morrison, Turner

0 nays

WITNESSES: For — Mark Escamilla, Del Mar College, Texas Association of Community Colleges; Michael Simon, Texas Association of Community Colleges; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Jennifer Poteat, Community College Association of Texas Trustees; Johnette McKown, McLennan Community College; Annie Spilman, National Federation of Independent Business Texas; Frank Graves, Texas Administrators of Continuing Education; Miranda Goodsheller, Texas Association of Business; Brenda Hellyer, Texas Association of Community Colleges, San Jacinto College; Stephanie Simpson, Texas Association of Manufacturers; Michael White, Texas Construction Association; Mike Meroney, Texas Workforce Coalition, Huntsman Corporation, BASF Corporation; Aidan Utzman, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board; Matt Oliver)

BACKGROUND: Under Education Code, sec. 130.003(a), public junior colleges receive part of their funding based on their number of contact hours, a measurement of scheduled academic or technical class time.

DIGEST: HB 2994 would require contact hours for workforce continuing education courses at public junior colleges to be counted when determining state appropriations, regardless of whether they were taken by a student who was not an adult or whether the college waived all or part of the tuition or fees for the course under certain conditions. An "adult" would mean a

person who was at least 18 years old or who was 17 years old and had received a high school diploma or the equivalent.

The bill would allow a public junior college to enter into an agreement with a school district, organization, or other person that operated a high school to offer workforce continuing education courses to persons in high school who were at least 16 years old on the census date of the applicable course.

A public junior college could waive all or part of the tuition and fees charged to a student for a workforce continuing education course if:

- the student was enrolled in high school;
- the student was at least 16 years old, an emancipated minor, and not enrolled in secondary education;
- the student was under the age of 18 and incarcerated;
- all or a significant portion of the college's costs for facilities, instructor salaries, equipment, and other expenses for the course were covered by business, industry, or other local public or private entities; or
- the course was taught in a federal correctional facility and the expenses for the course were funded by the federal government.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

Contact hour eligibility. HB 2994 would provide clarity on which continuing education courses were eligible for state formula funding. The bill would make clear that continuing education courses delivered to students age 16 or older could be reported for fundable contact hours. The Fair Labor Standards Act allows 16-year-olds to work, and providing continuing education courses to 16-year-olds who would be 17 upon completion of the course would be appropriate for workforce preparation.

The bill simply would put into statute the common understanding for how contact hours for students younger than age 18 have been counted in the past. This would not be a significant departure from previous practice, and the number of contact hours should not increase dramatically.

Workforce development. Workforce continuing education courses often align with the endorsements established through the enactment of HB 5 by Aycock in 2013. They also help students gain immediate employment while in high school, explore career options and interests, and assist with employment after graduation. While dual credit courses may be offered to assist in workforce development, communities need a variety of options to help improve the workforce. Without the enactment of HB 2994, community colleges could see a significant reduction in their funding for certain types of continuing education courses, leading to courses being cut or substantial fee increases.

Partnerships with local entities. Some colleges partner with local entities such as law enforcement, emergency medical services, and fire departments to deliver continuing education training and to offset some costs for offering courses. Under these partnerships, an entity might provide the use of their facilities, equipment, or vehicles, while the college provides the instruction. Even if tuition and certain expenses are covered in these situations, there are other expenses that the community college must absorb. Not being reimbursed for contact hours in such situations would make it difficult for community colleges to deliver the training the community is requesting in the most efficient manner. This bill would remedy that issue by allowing for reimbursement of certain courses where tuition was waived.

Fiscal impact. While the Legislative Budget Board has anticipated a cost to the state after the current fiscal biennium, any increase in funding would be an appropriations decision. The bill would increase the number of fundable contact hours but would not increase the amount allocated.

OPPONENTS SAY:

Contact hour eligibility. The Education Code refers to workforce continuing education courses as "continuing adult education programs for occupational or cultural upgrading," demonstrating that such courses typically are considered to be for adults, not students under age 18. Continuing education courses historically have not been designed for students in high school, which is why continuing education courses offered to students under age 18 should not be counted for funding.

Increasing the eligibility of contact hours could lead to contact hour funding inflation. Unless the Legislature was able to increase funding in future sessions to correspond with the increase in contact hours, the amount of funding offered per contact hour could decrease.

Workforce development. Career and technical education (CTE) courses are a more appropriate option for high school students. These courses to develop workforce skills can be offered as dual-credit, whereas continuing education courses are noncredit courses that do not count toward a degree. Community colleges that offer dual-credit courses already are authorized to waive tuition and receive contact hour funding, and dual-credit CTE courses are a better option to develop the workforce and lead to degree completion.

Fiscal impact. Although the bill would not affect general revenue through fiscal 2019, the bill would result in a substantial cost to the state of about $13 million in each subsequent fiscal year.

OTHER OPPONENTS SAY:

Partnerships with local entities. The requirement that a student be at least 16 years old on the census date of the course could lead to administrative difficulties in reporting the age of the students because the census date often falls only a few days after the first day of class. A better approach would be to require that a student be a junior or senior in high school when enrolling in the course.

NOTES:

A companion bill, SB 1746 by Hinojosa, was left pending following a public hearing in the Senate Committee on Higher Education on April 26.

According to estimates in the fiscal note, an additional 1.6 million contact hours per semester would be eligible for formula funding under HB 2994. The bill would have no fiscal impact during fiscal 2018-19 because formula funding is provided to institutions based on student data prior to the fiscal biennium being funded, according to the Legislative Budget Board. Beginning in fiscal 2020, the estimated cost would be $13 million annually to general revenue related funds.

SUBJECT: Requiring certain disclosure for rental-purchase agreements

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 6 ayes — Oliveira, Shine, Collier, Romero, Villalba, Workman

1 nay — Stickland

WITNESSES: For — Mathew Grynwald, Rent-A-Center, Inc.; (*Registered, but did not testify*: Mark Vane, Gardere Wynne Sewell LLP; Scott Pospisil, Texas Association of Rental Agencies, Inc.)

Against — None

BACKGROUND: Business and Commerce Code, sec. 92.001 defines a "rental-purchase agreement" as an agreement that allows a consumer to use merchandise for personal use for an initial period of four months or less, is automatically renewable with each payment after the initial period, and permits the consumer to become the owner of the merchandise.

Sec. 92.052 requires contracts for rental-purchase agreements to make certain disclosures, including the market cash value of the merchandise, amount and timing of payments, total number of payments necessary to acquire ownership, and notice of the right to reinstate the agreement.

DIGEST: CSHB 1859 would require merchants that do not derive at least 50 percent of revenue from rental-purchase agreements to make certain disclosures to a consumer before presenting a rental-purchase agreement for merchandise.

These merchants would be required to make the following disclosures to the consumer separately from the agreement:

- the current cash market value of the merchandise;
- the amount of periodic payments that would be provided for in the agreement; and
- the total number and amount of periodic payments needed to

acquire ownership of the merchandise.

When the agreement was presented, these merchants also would be required to issue a disclosure entitled "Acknowledgement of Rental-Purchase Transaction" to be signed by consumers on a separate page from the agreement. This disclosure would have to include an acknowledgement that:

- consumers understood they were entering into a rental-purchase agreement;
- consumers did not own the merchandise but could acquire ownership;
- the agreement was not a credit transaction;
- consumers could return the merchandise and pay out the remainder of the rental charges, if authorized by the agreement;
- consumers had the right to reinstate the agreement if they failed to make a timely payment, as provided by the agreement; and
- consumers had reviewed the agreement and understood their right and options to acquire ownership, as well as the total cost of the merchandise.

The bill also would amend definitions pertaining to rental-purchase agreements.

The bill would take effect September 1, 2017, and would apply only to agreements entered into on or after that date.

SUPPORTERS SAY:

CSHB 1859 would be an important modernization of the law governing rental-purchase agreements. In the past, these agreements were conducted solely through rental-purchase companies, making disclosures about the purpose of the agreements unnecessary. Now, however, many furniture and appliance retailers have begun to offer a rental-purchase option, often marketed to consumers who were denied for credit agreements. The Legislature should take steps to account for these new transactions.

The bill would ensure transparency for consumers entering into rental-purchase agreements. Many customers who sign rental-purchase

agreements with traditional retailers believe that they are agreeing to a credit transaction providing them ownership of the merchandise. Requiring consumers to sign that they understood the provisions of the agreement would provide legal clarity to all parties.

The bill would not unfairly favor traditional rental-purchase stores. Because these stores deal only in rental-purchase agreements, their customers already are aware of the type of contract they are entering into. Requiring retail stores to disclose the terms of rental-purchase agreements would level the playing field for such agreements.

OPPONENTS SAY:

CSHB 1859 would inhibit free market competition and give traditional rental-purchase stores an advantage by requiring disclosure only for merchants that derive less than half of their income from rental-purchase agreements. The market, not government, should determine best practices for these agreements, and consumers should be responsible for reading and understanding the contracts they sign.

NOTES:

A companion bill, SB 938 by V. Taylor, was considered in a public hearing of the Senate Committee on Business and Commerce on April 25.

SUBJECT: Allowing electronic jury questionnaires

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

1 absent — Farrar

WITNESSES: For — Craig Pardue, Dallas County; Charles Reed, Dallas County Commissioners Court; (*Registered, but did not testify*: Donna Warndof, Harris County Commissioners Court; Mark Mendez, Tarrant County; Rick Thompson, Texas Association of Counties; John Dahill, Texas Conference of Urban Counties; Deece Eckstein, Travis County Commissioners Court; Thomas Parkinson)

Against — None

BACKGROUND: Government Code, sec. 62.0132 lists the required contents of jury questionnaires sent to potential jurors along with their summons.

DIGEST: CSHB 1755 would provide an alternate method by which counties could send jury summons questionnaires. Instead of including a physical copy of the questionnaire in the summons, the bill would allow counties to send a written jury summons to potential jurors that included the internet address of the court's website where a potential juror could find an electronic copy of the questionnaire that could easily be printed.

The bill also would allow counties that had adopted plans for electronic jury selection to allow individuals to complete and submit a questionnaire on the court's website.

The bill would take effect September 1, 2017, and would apply to written summons sent on or after that date.

SUPPORTERS SAY:

CSHB 1755 would help counties save money on postage and administrative costs associated with the delivery of hard copy jury summons and questionnaires. Instead of being required to send potential jurors a summons, a return envelope, and a hard-copy questionnaire, the bill would allow counties instead to mail the summons bearing an internet address at less cost — by postcard, for example. By some estimates, such a system could save up to $225,000 a year in Dallas County alone.

While internet access today is widespread, those who could not or did not complete the online form in advance would be able to fill out the questionnaire when they reported for jury service, which counties currently allow when someone has forgotten to complete the questionnaire or made a mistake when doing so.

OPPONENTS SAY:

CSHB 1755 could have a disparate impact on low-income individuals, who are less likely to have internet access. Currently, counties include a return envelope and questionnaire for the potential juror to complete and mail. It is unlikely the bill would save money unless a county chose to place the entire questionnaire process on the court’s website, but this could result in reduced jury service participation.

NOTES:

A companion bill, SB 259 by Huffines, was approved by the Senate on March 28 and referred to the House Judiciary and Civil Jurisprudence Committee on April 18.

The committee substitute differs from the original bill in that CSHB 1755 would allow counties that adopt plans for electronic jury summons to allow potential jurors to fill out and submit jury summons questionnaires on the court's website.

SUBJECT: Revising provisions related to LIRAP and local initiative projects

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 8 ayes — Pickett, E. Thompson, Cyrier, Kacal, Landgraf, Lozano, Reynolds, E. Rodriguez

1 nay — Dale

WITNESSES: For — John Dohmann, Dallas County Sheriff; Lawrence McCall, Dallas County Sheriff Emission Enforcement Task Force; Stacy Suits, Travis County; Jon White, Travis County Environmental Quality; Jason Candelas; (*Registered, but did not testify*: June Deadrick, CenterPoint Energy; Donna Warndof, Harris County; Cyrus Reed, Lone Star Chapter Sierra Club; Stephanie Thomas, Public Citizen; Brennan Howell, South-Central Partnership for Energy Efficiency as a Resource; Mark Mendez, Tarrant County; Robin Schneider, Texas Campaign for the Environment; Donald Lee, Texas Conference of Urban Counties; Mario Martinez, Texas Independent Auto Dealers Association; Deece Eckstein, Travis County Commissioners Court)

Against — None

On — (*Registered, but did not testify*: Shannon Stevenson, North Central Texas Council of Governments; Donna Huff, TCEQ)

BACKGROUND: In several counties, including those that do not meet federal air quality standards, emissions inspections are conducted as part of the annual state vehicle safety inspection. Health and Safety Code, secs. 382.202 and 382.302 authorize the Texas Commission on Environmental Quality (TCEQ) to assess fees for these inspections.

Under sec. 382.202(g)(1), TCEQ must use a portion of the fees collected to fund the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), which assists low-income vehicle owners whose vehicles fail emissions testing with repairing a failing vehicle or purchasing one that meets emissions

standards. Sec. 382.202(g)(2) requires TCEQ, to the extent practicable, to distribute available funding generated from the fees to participating counties in reasonable proportion to the amount collected in those counties or regions.

Under sec. 382.220(d), funding that counties receive from the fees may be used for local initiative projects in an amount not to exceed $7 million per fiscal year and may be made available only if the county participates in LIRAP and provides matching funds for the project. Of the potentially available $7 million, $2 million may be used only for projects to reduce use of counterfeit registration insignia. Health and Safety Code, sec. 382.220(b) describes programs that qualify as local initiative projects.

DIGEST:

CSHB 2321 would make various changes to the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) and local initiative projects program.

LIRAP. The bill would revise requirements for guidelines that the Texas Commission on Environmental Quality (TCEQ) must adopt to assist counties participating in LIRAP. The guidelines would have to recommend that replacement vehicles had an odometer reading of no more than 85,000 miles, increased from 70,000 miles, and were from the current or previous four, rather than three, model years for cars and certain other vehicles and from the current or previous three, rather than two, model years for trucks.

TCEQ's guidelines would recommend setting the maximum financial assistance for vehicle repairs at no less than $800 and the minimum financial assistance for vehicle replacements at:

- $4,000 for a replacement car, increased from $3,000;
- $4,000 for a replacement truck, increased from $3,000; and
- $4,500 for certain other replacement vehicles, increased from $3,500.

To be eligible for LIRAP repair or replacement, vehicles no longer would have to be registered in the county implementing the program for 12 of the 15 months preceding the application. The bill also would allow

replacement vehicles purchased with LIRAP assistance to include vehicles leased for at least three years under an agreement that allowed them to be driven 12,000 miles or more per year without penalty.

Local initiative projects. CSHB 2321 would revise Health and Safety Code, sec. 382.220 to specify in that section that TCEQ was required to provide funding for LIRAP using fee revenue from emissions-related inspections and other designated and available funds and allowed to provide funding from inspection fees to participating counties for local initiative projects. The bill would require a county pursuing local initiative projects to spend at least half of the funding from inspection fees made available to the county on LIRAP. It also would allow funds that had not been spent on the last day of the fiscal year in which the money was allocated for local initiative projects to be used for local government fleet replacement and retirement.

CSHB 2321 would remove the requirements that no more than $7 million per fiscal year be allocated for local initiative projects and that $2 million of the potential $7 million be used for projects addressing counterfeit registration insignia. The bill also would eliminate the requirement that money for local initiative projects be provided to counties only on a matching basis.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 2321 would modernize and increase the effectiveness of the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) and local initiative projects, which have been instrumental in reducing emissions across the state. Multiple Texas counties are in nonattainment of the eight-hour ozone standard set by the Environmental Protection Agency (EPA), and these programs are critical for reaching attainment, especially as EPA prepares to implement a more stringent ozone standard.

The bill would not increase the scope of state government, as it would aim to make the use of local funds by counties more effective. By improving the effectiveness of LIRAP and local initiative projects, CSHB 2321 would help to maintain clean air and facilitate attainment of EPA

standards. Clean air is a public good from which all Texans benefit.

LIRAP. CSHB 2321 would expand vehicle model year eligibility and allowable mileage in LIRAP. This change would help lower-income participants who might not be able to use the program due to the costs of payments on a newer vehicle. The bill also would modernize the program by increasing recommended financial assistance amounts. While repair and vehicle costs have increased, assistance provided under LIRAP has remained the same.

The bill would remove the current requirement that, to be eligible for repair or replacement through LIRAP, a vehicle must have been registered in the county implementing the program for 12 of the 15 months preceding application. Under current law, even if individuals obtain a temporary registration permit, they cannot qualify for needed LIRAP assistance because their vehicle might not have been registered for long enough in the county where they are seeking assistance. The bill would remove this requirement that prevents individuals who need the program's assistance from obtaining it.

Local initiative projects. CSHB 2321 would eliminate the burdensome matching funds requirement for counties to receive local initiative project funding. Because the funds for local initiative projects come from fees assessed in participating counties, the match requirement essentially double-charges these counties for use of their funds.

The bill also would give counties increased flexibility in implementing local initiative projects by allowing unspent funds to go toward replacing or adding vehicles to vehicle fleets.

The bill could be amended to eliminate vehicle leases from the definition of "purchase" to remove this as an option for vehicle replacement through LIRAP.

OPPONENTS SAY:

By removing the requirement that vehicles must have been registered in a county for at least 12 of the 15 months prior to application for repair or replacement eligibility through LIRAP, the bill would increase the potential for abuse of the program. CSHB 2321 would allow vehicles

from outside the region to be brought in, given a temporary registration permit, repaired with LIRAP funding, and subsequently resold or moved out of the region. Similarly, individuals could bring in outside vehicles, purchase a temporary registration permit for them, and take advantage of LIRAP funding to purchase a new vehicle.

The bill inappropriately would allow LIRAP funds to be used to lease vehicle replacements. Vehicle leases under the program could be difficult for counties to administer and would not be the best use of these funds compared to facilitating vehicle ownership.

CSHB 2321 would expand the scope of government by increasing existing subsidy programs. The programs take money from motorists' vehicle inspections and redistribute it to others.

NOTES: The author of the bill plans to offer a floor amendment that would remove leasing a vehicle from the definition of "purchase."

SUBJECT: Providing loan debt information to certain students

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard, Morrison, Turner

0 nays

WITNESSES: For — (*Registered, but did not testify*: Garrett Groves, Center for Public Policy Priorities; Miranda Goodsheller, Texas Association of Business; Trevor McGuire, Texas Public Policy Foundation; James Thurston, United Ways of Texas)

Against — None

On — Lisa Blazer, the University of Texas at San Antonio; (*Registered, but did not testify*: Ginger Gossman, Texas Higher Education Coordinating Board; Christopher Murr, Texas State University)

DIGEST: CSHB 836 would require certain higher education institutions annually to provide information through an electronic communication to students who initially enrolled as first-time freshmen about the status of their state and federal loans. The disclosure would include:

- an estimate of the total amount of their current state and federal loans and information about the types of loans included in the estimate;
- an estimate of or range for a student's total loan payoff amount, including principal and interest;
- an estimate of future monthly loan payment amounts, including principal and interest;
- a statement that the disclosure was not a complete and official record of the student's loan debt; and
- a statement that information provided was an estimate, not a guarantee or promise.

Institutions would not incur liability for any information provided to students.

The bill would take immediate effect if finally passed by a two-thirds vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2018-19 academic year.

SUPPORTERS SAY:

CSHB 836 would provide a valuable and needed resource for students by annually providing them with information on their loan debt. Research has shown that a significant number of undergraduate students are unclear on how much they are paying for college or what their debt will be upon graduation. The bill would help students make more informed decisions about loans, minimizing their debt.

One goal of the Texas Higher Education Coordinating Board's 60x30TX Texas plan is that undergraduate student loan debt will not exceed 60 percent of first-year wages for graduates of Texas public institutions by 2030. Attaining this goal depends on students understanding the short-term and long-term consequences of the choices they make about loans. By informing students about their debt, CSHB 836 would help the state achieve the goals set forth in 60x30TX.

CSHB 836 also would protect institutions of higher education from liability in providing the disclosure. The bill specifies that the information it would provide was a general estimate and not a complete or official record of the student's loan debt amount. CSHB 836 is modeled on similar reporting at the Indiana University, which has not had problems with transmitting information or with liability issues.

The bill would have no significant fiscal implication to the state. Institutions of higher education would have to provide only the administrative overhead costs associated with electronically communicating the loan information to students.

The numerous resources on loan debt can confuse students. The bill would create one source for loan information that encapsulated both state and federal loans. This especially would assist first-generation students and

their families who might not be as familiar with financial assistance programs and could benefit from a single resource about their debt.

OPPONENTS SAY:

CSHB 386 would require higher education institutions to dedicate resources and staff time to providing information to students on their state and federal loan debts that already is available to them. Resources such as entrance and exit counseling and online materials help keep students informed about their loans.

The bill would provide only estimates and limited information to students on their state and federal loan debt, which could confuse them if it did not match other existing sources. The state currently does not have a system that can track debt from other institutions of higher education within Texas, so the information provided could be incomplete.

OTHER OPPONENTS SAY:

While the bill would create a needed resource for college students to better understand their debt, more tools are needed, such as one-on-one counseling and debt literacy courses. In addition, students should be sent information through communication tools relevant to their generation, including text messages or mobile apps.

CSHB 836 would provide debt information only to students who initially enrolled at an institution as first-time freshmen. The bill should extend this benefit to transfer students.

NOTES:

A companion bill, SB 887 by Seliger, was approved by the Senate on March 20 and referred to the House Committee on Higher Education on April 18.

SUBJECT: Regulating internationally active insurance groups

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — Ted Kennedy, AIG; (*Registered, but did not testify*: Deborah Polan, AIG; Thomas Ratliff, American Insurance Association; John Marlow, Chubb; Jennifer Cawley, Texas Association of Life & Health Insurance)

Against — None

On — (*Registered, but did not testify*: Doug Slape, Texas Department of Insurance)

BACKGROUND: Insurance Code, ch. 823 regulates activities of insurance holding company systems to ensure they have sufficient capital to pay policyholders' claims.

DIGEST: HB 3220 would allow the Texas Commissioner of Insurance to regulate internationally active insurance groups (IAIG), defined by the bill as an insurance holding company system that is registered in Texas and has:

- premiums written in at least three countries;
- at least 10 percent of its total gross premiums written outside the United States; and
- total assets of at least $50 billion or total gross written premiums of at least $10 billion based on a three-year rolling average.

Supervision. The commissioner would be authorized to act as the group-wide supervisor for any IAIG. The commissioner could acknowledge another regulatory official as group-wide supervisor when the IAIG did not have substantial insurance operations in the United States, had substantial operations in the United States but not in Texas, or had

substantial operations in both but the commissioner determined for another reason that the other official was the appropriate supervisor. An insurance holding company system that did not otherwise qualify as an IAIG could request that the commissioner determine or acknowledge a group-wide supervisor.

In making a determination or acknowledgment of a group-wide supervisor, the commissioner would be required to consider several factors listed in the bill. Some of these would include the domicile of significant insurers within the insurance group, the location of major insurance group offices, whether another regulatory official sought to act as a group-wide supervisor under a regulatory system similar to Texas' or was otherwise sufficient, and whether another regulatory official provided reasonably reciprocal recognition and cooperation. In addition, the bill would require that the commissioner's acknowledgement of the supervisor be made in cooperation with other regulatory officials involved with supervising members of the IAIG and in cooperation with the IAIG.

The commissioner would be required to make a determination or acknowledgment of the appropriate group-wide supervisor in the event of certain material changes that resulted in Texas becoming the domicile of the top-tiered insurers in the holding company or becoming where the largest share of the group's premiums, assets, or liabilities were domiciled. The commissioner would be authorized to collect all information necessary to determine whether the commissioner could act as the group-wide supervisor. Prior to issuing such a determination, the commissioner would be required to provide notice to the IAIG, which would have up to 30 days to provide additional information.

Risk assessment. If the commissioner was the group-wide supervisor, the commissioner would be authorized to request information from any group members to assess risks, identify and develop measures to recognize and mitigate risks, and communicate through supervisory colleges with other state, federal, and international regulators to share information under applicable confidentiality requirements.

The commissioner also would be authorized to enter into agreements or obtain documentation from any registered insurer, any member of the

IAIG, and any other state, federal, and international regulatory agency for the IAIG's members. The agreements or documentation could not be used as evidence to show that any insurer or person within the holding company system that was not domiciled or incorporated in Texas was doing business in Texas or otherwise was subject to jurisdiction in Texas.

If the commissioner acknowledged that a group-wide supervisor was a regulatory official from a jurisdiction not accredited by the National Association of Insurance Commissioners, the commissioner would be authorized to cooperate through supervisory colleges or otherwise with that supervisor in compliance with Texas laws and the recognition and cooperation of the supervisor.

Expenses. A registered insurer subject to the provisions of the bill would be required to pay reasonable expenses for the commissioner's administration, including fees for attorneys, actuaries, and other professionals and all reasonable travel expenses.

Disclosure. The bill would change the threshold for disclosing information about a transaction on an insurer's registration statement from the lesser of 0.5 percent of an insurer's admitted assets or 5 percent of surplus to 0.5 percent of an insurer's admitted assets as of December 31 of the year preceding the date of a transaction.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to transactions that occurred and to information obtained by or provided to the commissioner on or after that date.

SUPPORTERS SAY:

HB 3220 would address concerns that international regulators might enforce group-wide regulatory requirements on certain Texas-based insurers by giving the Commissioner of Insurance explicit statutory authority to serve as the group-wide supervisor for an internationally active insurance group (IAIG). The bill would protect the state's interest in regulating a few large Texas insurance companies that operate internationally if those companies wanted Texas to serve in that role. It also would provide the regulatory framework that could allow Texas to

become the primary regulator of other IAIGs that wanted to be regulated by Texas rather than another jurisdiction.

Following the 2008 international financial crisis and the broader globalization of insurance markets, the supervision of IAIGs has garnered attention among regulators. International regulators have threatened to enforce group-wide regulatory requirements on U.S.-based insurers due to the absence of explicit statutory authority for a state to serve as the group-wide supervisor. This type of international regulation could add regulatory requirements that potentially conflict with Texas laws and increase costs on the insurers.

Holding company systems, or groups, may encompass not only insurance companies but entities such as banks and securities firms. The bill would provide the regulatory authority to the commissioner to monitor the IAIG to ensure that affiliated insurance companies had the solvency to pay policyholders' claims.

The bill would codify regulatory activities and cost-related fees already in practice at the Texas Department of Insurance, which recommended changes to the Insurance Code in its December 2016 report to the Legislature. The bill is based on model language adopted by the National Association of Insurance Commissioners to allow a state regulator sufficient oversight of IAIGs to avoid federal regulation.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, SB 1071 by Hancock, was reported favorably by the Senate Business and Commerce Committee on April 24 and recommended for the Senate local and uncontested calendar.

SUBJECT: Allowing agricultural land valuation for land in the pest management zone

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 6 ayes — T. King, González, C. Anderson, Burrows, Rinaldi, Stucky

0 nays

1 absent — Cyrier

WITNESSES: For — Dale Murden, Texas Citrus Mutual; (*Registered, but did not testify*: Todd Kercheval, Texas Conservation Association for Water and Soil; Jim Reaves, Texas Farm Bureau; Patrick Wade, Texas Grain Sorghum Association; Jeff Stokes, Texas Nursery and Landscape Association; Lauren Wied, Wonderful Citrus)

Against — None

On — (*Registered, but did not testify*: Phillip Wright, Texas Department of Agriculture)

BACKGROUND: Tax Code, sec. 23.51 defines qualified open-space land as land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted to such use for five of the preceding seven years. Qualified open-space land receives an agricultural use valuation, defined in Tax Code, sec. 23.52, which results in tax exemptions.

Agriculture Code, ch. 80 recognizes the Texas Citrus Pest and Disease Management Corporation, Inc., a Texas nonprofit corporation, as the entity responsible for pest control programs. A pest management zone is defined in ch. 80 as a geographic area designated by the Commissioner of Agriculture in which citrus producers approve their participation in a citrus pest control program. Currently, the pest management zone includes Hidalgo, Willacy, and Cameron counties.

DIGEST:

HB 3013 would provide an exception allowing certain land not qualifying as open-space land to receive the agricultural use valuation if:

- the landowner executed an agreement with the Texas Citrus Pest and Disease Management Corporation, the commissioner of agriculture, or the U.S. Department of Agriculture to destroy, remove, or treat all citrus trees on the land that were or could become infested with pests;
- the land was in a pest management zone and was appraised as agricultural land primarily on the basis of citrus production in the tax year in which the agreement was executed;
- the owner provided a copy of the pest management agreement to the chief appraiser for each appraisal district where the land was located along with notification of the intent to destroy, remove, or treat the citrus trees on the land under the terms of the agreement; and
- the cessation of the agricultural use was caused by the destruction, removal, or treatment of the citrus trees located on the land under the terms of the agreement.

The bill would apply only to land eligible for appraisal during the period that begins on the date of execution of the agreement and ends five years later. If the owner did not fully comply with the terms of the agreement, a change of use of the land would be considered to have occurred on the date of the agreement.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply only to land owned by a person executing one of these agreements on or after that date.

SUPPORTERS SAY:

HB 3013 would provide incentives for landowners with abandoned or unmanaged citrus groves to treat or remove infested citrus trees. This is important because these groves frequently harbor diseases and pests that spread to nearby groves, which can cause serious issues. The incentives are necessary to protect the millions of dollars invested using industry, state, and federal funds to slow the spread of incurable plant diseases in the area.

The bill would protect the citrus industry by providing appraisers with specific rules to use when determining whether land should receive the agricultural use exemption. Some individuals currently receive the exemption even though they do not properly manage, treat, and care for their groves. Allowing them to keep the exemption for up to five years while their groves were properly treated or removed would help ensure the groves were properly managed and reduce the risk of spreading pests and diseases.

While some argue that it would be inappropriate to provide this incentive to landowners, it is important to note that the bill is specifically tailored to protect Texas' citrus industry in the Rio Grande Valley, which is valued at $200 million annually and employs up to 3,000 workers in a normal producing year. The citrus industry is a valuable part of the Texas economy, and providing this incentive would protect it.

OPPONENTS SAY:

HB 3013 would allow certain landowners to receive the agricultural use valuation even though they were not using their lands for agricultural uses, which would be inappropriate for the purposes of the valuation. Only landowners currently using their lands for an agricultural use should receive the benefit of the agricultural use valuation.

NOTES:

The Legislative Budget Board's fiscal note says that the bill could result either in costs or savings to the Foundation School Fund depending on whether it resulted, respectively, in a reduction in taxable property values or the prevention of losses in the taxable value of citrus land.

A companion bill, SB 1459 by Hinojosa, was approved by the Senate on April 19.

SUBJECT: Making certain computer networks, web addresses a common nuisance

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

WITNESSES: For — (*Registered, but did not testify*: Guy Herman, Statutory Probate Courts of Texas; Caroline Joiner, TechNet; Zindia Thomas, Texas Municipal League; Jennifer Allmon, the Texas Catholic Conference of Bishops)

Against — None

On — Kirsta Melton, Office of the Attorney General

BACKGROUND: Under Civil Practice and Remedies Code, sec. 125.0015, a common nuisance is place where persons habitually go for certain criminal activities that are knowingly tolerated by the person maintaining it.

DIGEST: HB 2770 would add under Civil Practice and Remedies Code, sec. 125.0015 that a person operating a web address or computer network in connection with certain sex crimes, organized criminal activity, or employment harmful to a child or for human trafficking was maintaining a common nuisance.

The bill would authorize an individual, the attorney general, or a district, county or city attorney to bring a suit against a person declaring that a person operating a web address or computer network was maintaining a common nuisance.

The sole remedy available for a finding that a web address or computer network was a common nuisance would be a judicial finding issued to the attorney general. The attorney general could post the finding on its website or notify internet service providers, search engine operators,

browsing or hosting companies, or device manufacturers on which applications were hosted of the judicial finding.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 2770 would help combat human trafficking and underage prostitution by expanding what constitutes a "place" under common nuisance law to include websites and computer networks connected to certain crimes. This would give authorities more tools to address the evolving sex crime and human trafficking industries. The bill would enable local and state officials to enjoin and abate these websites and computer networks, cutting off access to their business.

The bill would promote law enforcement cooperation with internet service providers (ISPs) and other internet technology actors to combat trafficking and changing criminal modalities. This cooperation also could encourage greater self-regulation by the ISP industry, which is key in addressing criminal activity in the midst of rapidly expanding technology.

HB 2770 would use an existing law on common nuisances and apply it to the internet to help shut down parts of the human trafficking supply chain. Currently, people throughout Texas can purchase trafficked adults and children on the internet. The bill would help address the easy access customers have to this illegal activity and enable law enforcement to pursue the purveyors with another tool.

Nuisance laws give owners of "places" the opportunity to remedy the nuisance. If the illegal activity is stopped, there is no need for the lawsuit to continue. Those who operate a website where children are sold for sex, even if they are not the ones doing the selling, are in fact bad actors facilitating the sale of children for sex.

The bill would use the common nuisance law appropriately and clearly. The nuisance law is not meant to prosecute people who are committing the specified crimes. Rather, it is designed to go after actors enabling criminal activity through their facilities. In this case, the facility is virtual, and the bill would affect those actors who supported human trafficking and sex crimes through their "housing" of bad actors.

OPPONENTS SAY:

HB 2770 could target persons operating a web address or computer network even if it was not the same person engaged in illegal conduct, resulting in a potential overreach of government that could put private property rights at risk. Nuisance laws were developed to address conduct at physical property, and the bill would attempt to treat a computer network in the same manner. However, physical property and a computer network are different in nature, and the bill could lead to ambiguity in the abatement of these activities.

OTHER OPPONENTS SAY:

HB 2770 would not go far enough to address trafficking and illegal sexual activity facilitated by the internet. Self-regulation of internet businesses is ideal but unlikely to be sufficient. Directing ISPs to proactively search for websites facilitating human trafficking could be another approach to addressing these businesses. The bill also should include mobile phone networks in its scope as an increasing number of websites have mobile capability.

NOTES:

A companion bill, SB 1196 by Kolkhorst, was approved by the Senate on April 19.